

MBELDEF

Minority Business Enterprise Legal Defense and Education Fund, Inc.

Parren J. Mitchell
Founder and Chairman

Anthony W. Robinson
President

December 14, 1994

VIA HAND DELIVERY

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Chairman Hundt:

The Minority Business Enterprise Legal Defense and Education Fund, Inc. (MBELDEF), serves as a national advocate and legal representative for the minority business community on diverse matters and interests. MBELDEF previously filed informal comments with the FCC in PP Docket No. 93-253.¹ In alphabetical order, we, along with:

Communications Task Force
Hispanic Association on Corporate Responsibility
Mexican American Legal Defense and Education Fund (MALDEF)
Minority Media Telecommunications Council
National Association For The Advancement of Colored People
(NAACP)
National Association of Black Owned Broadcasters (NABOB)
National Association of Investment Companies (NAIC)
National Association of Minorities in Cable (NAMIC)
National Bar Association (NBA)
National Black Media Coalition (NBMC)
National Latino Telecommunications Task Force
Office of Communication, United Church of Christ

now believe it necessary to offer further comment on this matter in view of the Commission's further Order of November 23, 1994, regarding competitive bidding rules for certain broadband Personal Communications Systems (PCS) licenses/spectrum blocks, and related matters.

¹ See Fifth Report and Order in PP Docket No. 93-253, FCC 94-253, FCC 94-285 (released November 23, 1994).

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It is universally recognized that the licensing of PCS represents the largest and most important auction of public assets in the history of this country, a fact acknowledged by Vice President Gore, Senator Pressler, and Congressman Markey during the December 5, 1994 Opening Ceremonies for MTA Auctions.² Because of the perceived magnitude of PCS licensing, and the overall importance of telecommunications to the national and global economies, Congress - in its wisdom - directed the FCC to, inter alia, ". . . ensure that businesses owned by minorities and women are given an opportunity to participate in the provision of spectrum-based services."³ (Emphasis supplied.)

Although the directive from Congress is constitutionally sound - indeed, morally right - it is not often that an administrative agency moves with the encouraging resolve exhibited by the Commission in connection with PCS licensing. It is for this reason that we collectively commend your actions in this licensing process. At the same time, however, we would also state our belief that the Commission's activity has not been sufficiently structured to ensure that minority owned entities will be viable participants in the larger (more expensive) broadband area; we expect to offer more definitive comments in this regard in the near future. In our view, more should be done to help minority entrepreneurs compete and win in this marketplace.

For the moment, we have a deep concern that the FCC may be inclined to move further away from the Congressionally mandated objectives of the Act in the face of an apparently orchestrated attempt - particularly in the print media - to misrepresent the intent and effect of rules for designated entity participation in certain BTA blocks.

In delineating threshold considerations, Congress directed the Commission to fashion policies and procedures which avoid excessive concentration of licenses and, as well, promote economic opportunity. Thus, in sum, the Act directed the Commission to ensure that minority owned companies were competitive during the bid process (a prerequisite to ownership of a license), and that such companies have an opportunity to provide PCS products and services. The Act neither directed nor suggested that minorities serve either as passive participants or functionary vessels for others during the licensing process.

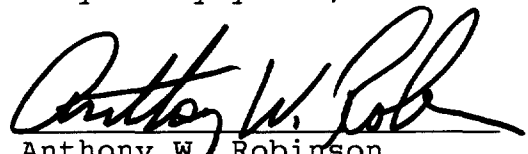
² See Attachments, Comments of Vice President Al Gore and Senator Larry Pressler, dated December 5, 1994, respectively.

³ 47 U.S.C. § 309(j)(4)(D).

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We urge the Commission to continue to bear these constitutionally based precepts in mind as it seeks to "fine-tune" its licensing rules and procedures. Moreover, we collectively urge the Commission to ignore the wrong-headed, misguided assault that some are choosing to make on this wholly appropriate, constitutionally permissible program. What many of these opponents conveniently seem to forget is that the FCC, during the licensing of cellular, reserved (set aside) one-half of the entire cellular spectrum in each market to the wireline carrier, and this was done in the face of an unjustified delay in moving this new service to the consuming public. Accordingly, one could easily argue that such a determination spawned the very record of non-competitiveness now so evident and which we all find unacceptable. In contradistinction, the finely tailored effort proposed here, particularly in light of the exhaustive record, is not only Congressionally mandated, it is also constitutionally sound.

Very truly yours,



Anthony W. Robinson
President

AWR/smb

cc: Commissioner James H. Quello
Commissioner Andrew C. Barrett
Commissioner Susan Ness
Commissioner Rachelle B. Chong

APPENDIX

The Organizations noted above can be contacted directly as follows:

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